

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH, NAGPUR

Writ Petition No. 3230/2004

The Vidharbha Ginning and Pressing Factory vs. Smt. Laxmibai Deorao Tayade and others.

Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

CORAM : A.P.LAVANDE, J

DATE : 10.6.2008

Heard Mr. Ghare, learned counsel for the petitioner. None appears on behalf of respondent no.1. Mrs. Taywade, learned A.G.P. appears on behalf of respondent no.2 & 3.

2. By this petition, the petitioner challenges order dated 23.10.2003 passed by the Controlling Authority under the Payment of Gratuity Act in the Case No. ACL/PGA/3/2000 by which the authority directed the petitioner to pay to the respondent no.1 the gratuity amount of Rs. 13,286/- and interest thereon @ 15% pa. from 1.4.1998.

3. Mr. Ghare, learned counsel appearing for the petitioner submitted that the Factory itself started in the year 1982 and as such the claim made by the respondent no.1 for the period beginning from 1971 onwards is clearly not tenable in law. He further submitted that the respondent no.1 was neither cross-examined nor any evidence was led on behalf of the petitioner and consequently the impugned order came to be passed. He further invited my attention that initially the

Controlling Authority had passed ex parte order dated 21.9.2000 by which the petitioner was directed to pay the amount of Rs. 13,286/- with interest @ 9% p.a. from 1st April, 1998 and the impugned order came to be passed after the application for setting aside ex parte order filed by the petitioner was allowed by the Controlling Authority. He, therefore, submitted that the impugned order passed by the Controlling authority be set aside and the matter be remanded to the authority for deciding the claim made by the respondent no.1 afresh after by giving an opportunity to both sides. In the alternative Mr. Ghare submitted that in the order dated 23.10.2003 the Controlling Authority has granted excessive interest @ 15% p.a. and that to without any justification. He, therefore, submitted that in any case the interest awarded @ 15% p.a. deserves to be reduced to 9% p.a..

4. Mrs. Taywade, learned A.G.P. for respondent no.2 supported the impugned order.

5. I have considered the submissions made by Mr. Ghare and perused the record. Perusal of the record discloses that even after ex parte order passed by the controlling authority was set aside the petitioner did not choose to contest the proceedings filed by the respondent no.1. Therefore, this is not a fit case in which the petitioner deserves to be granted an opportunity to contest the claim by setting aside the impugned order. Moreover, the petitioner has been directed to pay only an amount of Rs. 13,286/- to respondent no.1 towards gratuity payable to the respondent no.1. Having regard to this fact I am of the considered opinion that no

interference is called for in so far as the direction given by the authority to the petitioner to pay amount of Rs. 13286/- to the respondent no.1 is concerned. However, in so far as the impugned order grants interest @ 15% p.a. from 1.4.1998 on the amount of Rs. 13286/- is concerned I am of the considered opinion that the controlling authority was not legally justified to grant such excessive interest more particularly having regard to the fact that by earlier order dated 21.9.2000 the petitioner was directed to pay interest @ 9% p.a.. Therefore, in my opinion, the impugned order to the extent it directs the petitioner to pay interest @ 15% p.a. from 1.4.1998 deserves to be modified by directing the petitioner to pay interest @ 9% p.a. on the said amount.

5. For the reasons aforesaid, I find no merit in the present petition except to the extent of grant of interest @ 15% p.a. as directed by the controlling authority. The order is modified by reducing the interest to 9% p.a. from 15% p.a..

6. Pursuant to the order passed by this court the petitioner has deposited the amount of Rs. 15,000/- in this court. The respondent no.1 is at liberty to withdraw the said amount towards the part payment of the claim in terms of the impugned order. Needless to mention that since the amount of Rs. 15,000/- has been invested the respondent no. 1 will also be entitled to receive interest due in view of the investment.

The petition stands disposed of in the aforesaid terms.

Judge

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